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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT - 2 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Federal-State Joint) CC Docket No. 96-45
Board on Universal)
Service)

Comments of General Communication, Inc. on
Petitions for Reconsideration

Pursuant to Section 1.429 of the Commission's rules, General Communication, Inc. (GCI) hereby submits comments on the Rural Telephone Coalition's (RTC) Petition for Reconsideration relating to the recovery of corporate operations expenses in the Report and Order¹ adopted on May 8, 1997 and revised in the Order on Reconsideration² adopted July 10, 1997. The Commission should affirm its decision.

Overhead Costs Must Be Capped

In the Report and Order and the subsequent Order on Reconsideration, the Commission adopted a formula that establishes a range of reasonableness for the recovery of corporate operations expenses from the universal service fund. The Commission noted that "these expenses do not appear to be costs inherent in providing telecommunications services, but

¹In the Matter of Federal-State Joint Board on Universal Service, CC Docket 96-45, FCC 97-157, 62 Fed. Reg. 32,862 (June 17, 1997).

²In the Matter of Federal-State Joint Board on Universal Service, CC Docket 96-45, FCC 97-246 (July 10, 1997).

rather may result from managerial priorities and discretionary spending."³ The RTC asks the Commission to reconsider this position. They claim that these expenses are "the necessary costs of doing business as a regulated company and are hardly extraneous to the provision of service."⁴ They claim that current regulatory requirements force them to incur costs. Further, "rural LECs are all but forced to rely on cost consultants and legal counsel to interpret the meaning and impact of the new regulations"⁵ due to the Telecommunications Act of 1996. Lastly, the RTC claims that they have not received proper notice of this provision under the Administrative Procedures Act (APA). These arguments are repetitive to those filed in the petition for reconsideration of the Report and Order. The Commission should affirm its findings on this matter.

The RTC is acting as if nothing has changed. In the Telecommunications Act of 1996, Congress stated that competition is the national goal. The RTC wants everyone else, particularly competitive carriers and interexchange carriers, to pay their costs of moving into a competitive environment. This is an absurd position and will at a minimum delay, if not deter competitive carriers from entering a market.⁶

³Report and Order at paragraph 283.

⁴Petition for Reconsideration of RTC at 3.

⁵Id at 4.

⁶As pointed out in GCI's comments on the petitions for reconsideration of the Report and Order, this does not happen in a competitive world. Suppose a new drugstore or grocery store comes

Competitive carriers should not have to pay ILEC corporate operations expenses. The items outlined by the RTC show that they use those monies to keep competitors from entering the marketplace or to raise the price of entry so high that competitors will not enter.⁷ The Commission struck the right balance by capping the amount of expenses ILECs can reasonably expect to recover.

The Commission stated that the cap is "to ensure that the carriers use universal service support only to offer better service to their customers through prudent facility investment and maintenance consistent with their obligations under Section 254(k)."⁸ Pursuant to the Communications Act, the Commission must ensure that the universal support monies are distributed for their intended purpose. Under 254(k), the Commission

shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of joint and common costs of facilities used to provide those services.

to town and sets up shop right down the block from a store that has been located there for ten years. If the marketplace made the new entrant act as the RTC requests in their petition for reconsideration, the new entrant would have to pay all the costs to the original store owner to be in a competitive marketplace. These costs would include more advertising, additional employees to offer better service, promotional activities, new employees to reprice items for promotions and for competition, a bigger sign to highlight the store, additional monies for community activities, etc. The list could go on forever. This is not even considered in a competitive marketplace and should not be considered here.

⁷This would be in violation of Section 253.

⁸Report and order at 155.

Pursuant to this provision, the Commission is ensuring that corporate operations expenses are not excessive and that universal service does not bear more than its reasonable share of these costs. If the Commission did not cap corporate expenses, the Commission would be in violation of this provision.

The RTC claims that the Commission did not give adequate notice of this provision under the APA. This is incorrect. The Commission has been considering a cap on such expenses since it issued its Notice of Proposed Rulemaking and Notice of Inquiry in CC Docket 80-286.⁹ The Commission has included in the record of this proceeding all information filed in Docket 80-286 relating to the support mechanisms in Part 36.¹⁰ The Commission did this to avoid "unnecessary duplication of efforts by interested parties and regulators."¹¹ The RTC and other parties have filed comments throughout the proceedings on this particular issue. The Commission gave proper notice and had an adequate record to adopt the cap on corporate operations expenses.

⁹10 FCC Rcd 12309, 12324 (1995).

¹⁰In the Matter of Federal-State Joint Board on Universal Service, CC Docket 96-45, FCC 96-93 (March 8, 1996).

¹¹Id at paragraph 39.

Conclusion

The Commission should affirm its policies and rules regarding the cap on recovery of corporate operations expenses.

Respectfully submitted,

GENERAL COMMUNICATION, INC.


A handwritten signature in cursive script, reading "Kathy L. Shobert", written over a horizontal line.

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October 2, 1997

STATEMENT OF VERIFICATION

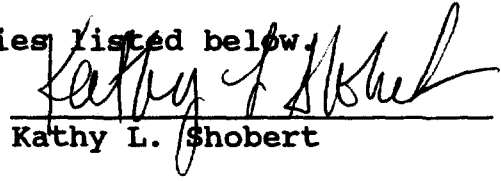
I have read the foregoing, and to the best of my knowledge, information and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed October 2, 1997.

A handwritten signature in dark ink, appearing to read 'Kathy L. Shobert', written over a horizontal line.

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CERTIFICATE OF SERVICE

I, Kathy L. Shobert, do hereby certify that on this 2nd day of October, 1997 a copy of the foregoing was mailed by first class mail, postage prepaid, to the parties listed below.


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